



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2016-0561; FRL- 9964-58-Region 3]

#### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Volatile Organic Compound Reasonably Available Control Technology for 1997 Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Pennsylvania state implementation plan (SIP). This SIP revision pertains to the requirements for reasonably available control technology (RACT) controls for certain sources of volatile organic compounds (VOCs) under the 1997 ozone national ambient air quality standard (NAAQS). This SIP revision includes Pennsylvania's certification that previously adopted RACT controls in Pennsylvania's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 1997 ozone NAAQS and a negative declaration that certain categories of sources do not exist in Pennsylvania. This SIP revision does not address Pennsylvania's May 2016 VOC and nitrogen oxides (NO<sub>x</sub>) RACT rule, "Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs," also known as RACT II. EPA will take separate action on RACT II. EPA is approving these revisions addressing VOC RACT for the 1997 ozone NAAQS in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on [insert date 90 days after date of publication in the Federal Register] without further notice, unless EPA receives adverse written comment by [insert date 30 days after date of publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0561 at <https://www.regulations.gov>, or via email to [stahl.cynthia@epa.gov](mailto:stahl.cynthia@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Maria A Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 25, 2006, the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP that addresses certain requirements of RACT under the 1997 ozone NAAQS. The SIP revision was entitled, “Pennsylvania Department of Environmental Protection Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision Under the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS),” September 2006, and will be referred to in this rulemaking action as “the 2006 RACT SIP.” On June 27, 2016, PADEP withdrew from EPA review portions of the 2006 RACT SIP revision related to RACT for major stationary sources of VOC and NO<sub>x</sub>. EPA has included in the docket a redacted version of the 2006 RACT SIP to identify which portions of this document remain before EPA and are the subject of this notice of proposed rulemaking. Pennsylvania addressed the remaining RACT requirements for the 1997 ozone NAAQS (which Pennsylvania withdrew from the 2006 RACT SIP) in a subsequent SIP revision submittal, which will be the subject of a separate rulemaking action.

## **I. Background**

Ozone is formed in the atmosphere by photochemical reactions between VOCs, NO<sub>x</sub>, and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply control on VOC and NO<sub>x</sub> emission sources to achieve emission reductions. Among effective control measures, RACT controls significantly reduce VOC and NO<sub>x</sub> emissions from major stationary sources.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological

and economic feasibility (44 FR 53761 at 53762, September 17, 1979). Section 182 of the CAA sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA, and referred to as RACT fix-up requires the correction of RACT rules for which EPA identified deficiencies before the CAA was amended in 1990. Pennsylvania previously corrected its deficiencies under the 1-hour ozone standard and has no further deficiencies to correct under this section of the CAA. The second requirement, set forth in section 182(b)(2) of the CAA, applies to moderate (or worse) ozone nonattainment area as well as to marginal and attainment areas in ozone transport regions (OTRs) established pursuant to section 184 of the CAA, and requires these areas to implement RACT controls on all major VOC and NO<sub>x</sub> emission sources and on all sources and source categories covered by a control technique guideline (CTG) issued by EPA.<sup>1</sup> See CAA section 182(b)(2) and 184(b). Alternatively, if a state has no sources in a particular source category covered by an EPA CTG, the state may submit a negative declaration in a SIP submittal asserting no subject sources are within the state.

In 1997, EPA revised the health-based NAAQS for ozone, setting it at 0.08 parts per million (ppm) averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time, than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more

---

<sup>1</sup> CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. The recommendations in the CTG are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the OTR must implement RACT with respect to sources of VOCs in the state covered by a CTG issued before or after November 15, 1990.

protective of human health, especially children and adults who are active outdoors, and individuals with a preexisting respiratory disease, such as asthma. EPA subsequently revised the ozone NAAQS in 2008 and again in 2015. This rulemaking only addresses SIP requirements under the 1997 ozone NAAQS.

The entire Commonwealth of Pennsylvania is in the OTR. Therefore, under CAA section 184, the entire Commonwealth was subject to RACT requirements under the 1-hour ozone standard. Pennsylvania has implemented numerous RACT controls to meet the CAA RACT requirements under the 1-hour and 1997 8-hour ozone NAAQS. These RACT controls were promulgated in title 25 of the Pennsylvania Code, chapter 129, Standards for Sources.

EPA requires under the 1997 ozone NAAQS that states meet the CAA RACT requirements, either through a certification that previously adopted RACT controls in their SIP revisions approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 1997 ozone NAAQS attainment purposes, or through the adoption of new or more stringent regulations that represent RACT control levels. A certification must be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data. This information may supplement existing RACT guidance documents that were developed for the 1-hour standard, such that the State's SIP accurately reflects RACT for the 8-hour ozone standard based on the current availability of technically and economically feasible controls. Adoption of new RACT regulations will occur when states have new stationary sources not covered by existing RACT regulations, or when new data or technical information indicates that a previously adopted RACT measure does not represent a newly available RACT control level. Pursuant to section

184(b)(1)(B) of the CAA, Pennsylvania had the obligation for the 1997 ozone NAAQS to implement RACT with respect to sources of VOCs in the Commonwealth covered by a CTG issued before or after November 15, 1990 (but before September 15, 2006 when SIP requirements were due for the 1997 ozone NAAQS). Another 1997 ozone NAAQS requirement for RACT is to submit a negative declaration that there are no CTG or non-CTG major sources of VOC and NO<sub>x</sub> emissions within the Commonwealth of Pennsylvania. The RACT requirements for the 1997 ozone NAAQS were due to EPA as SIP revisions by September 15, 2006. As stated above, PADEP submitted its 2006 RACT SIP on September 25, 2006 to address RACT requirements for certain VOC sources and for CTG sources.

## **II. Summary of SIP Revision**

Pennsylvania's 2006 RACT SIP revision satisfies certain RACT requirements for the 1997 ozone NAAQS through certification that previously adopted RACT controls in Pennsylvania's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and continues to represent RACT for the 1997 ozone NAAQS and negative declarations that certain CTG source categories do not exist in Pennsylvania.

### **CTG Source Categories**

Table 1 lists the CTG source categories due which were required to have RACT rules under the 1997 ozone NAAQS as these CTGs were issued by EPA prior to the due date for SIP requirements for this NAAQS (i.e., September 15, 2006). Table 1 also shows the regulations which PADEP has adopted for those source categories, their state effective dates, and the date and Federal Register (FR) citation of EPA's approval of each regulation. In addition, Table 1

shows the source categories for which Pennsylvania has submitted negative declarations as none of these sources existed in the Commonwealth for those specific categories. In its 2006 RACT SIP, PADEP has certified that these rules constitute RACT for the 1997 ozone NAAQS.

**Table 1. Pennsylvania RACT Rules for CTG VOC Source Categories**

<b>CTG VOC Source Category</b>	<b>Pennsylvania Rule (25 Pa. Code)</b>	<b>State Effective Date</b>	<b>EPA Approval Date &amp; FR Citation</b>
Aerospace	Section 129.73 Aerospace manufacturing and rework	4/10/99	6/25/01, 66 FR 33645
Bulk Gasoline Plants	Section 129.60 Bulk gasoline plants	8/3/91	5/13/93, 58 FR 28362
Equipment Leaks from Natural Gas/Gasoline Processing Plants	Negative Declaration		
Factory Surface Coating of Flat Wood Paneling	Negative Declaration		
Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment	Section 129.71 Synthetic organic chemical and polymer manufacturing—fugitive sources	5/23/92	12/22/94, 59 FR 65971
Graphic Arts - Rotogravure and Flexography	Section 129.67 Graphic arts systems	8/3/91	5/13/93, 58 FR 28362
		9/5/1998	7/26/2000, 65 FR 45918
		6/28/2014	6/25/2015, 80 FR 36481
Large Petroleum Dry Cleaners	Negative declaration		
Leaks from Gasoline Tank Trucks and Vapor Collection Systems	Section 129.62 General standards for bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks	5/23/94	12/22/94, 59 FR 65971
Leaks from Petroleum Refinery Equipment	Section 129.58 Petroleum refineries—fugitive sources	8/13/83	7/27/84, 49 FR 30183
Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins	Section 129.71 Synthetic organic chemical and polymer manufacturing—fugitive sources	5/23/92	12/22/94, 59 FR 65971

Manufacture of Pneumatic Rubber Tires	Section 129.69 Manufacture of pneumatic rubber tires	5/23/92	12/22/94, 59 FR 65971
Manufacture of Synthesized Pharmaceutical Products	Section 129.68 Manufacture of synthesized pharmaceutical products	8/3/91	5/13/93, 58 FR 28362  8/11/92, 57 FR 3577
Petroleum Liquid Storage in External Floating Roof Tanks	Section 129.56 Storage tanks greater than 40,000 gallons capacity containing VOCs	9/5/98	7/26/00, 65 FR 45920
Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds	Section 129.55 Petroleum refineries—specific sources	6/20/81	1/19/83, 48 FR 2319
SOCMI Air Oxidation Processes	Negative declaration		
SOCMI Distillation and Reactor Processes	Negative declaration		
Shipbuilding/repair	Negative declaration		
Solvent Metal Cleaning	Section 129.63 Degreasing operations	12/22/01	1/16/03, 68 FR 2208
Stage I Vapor Control Systems - Gasoline Service Stations	Section 129.61 Small gasoline storage tank control (Stage I control)	8/3/91	5/13/93, 58 FR 28362
Storage of Petroleum Liquids in Fixed Roof Tanks	Section 129.56 Storage tanks greater than 40,000 gallons capacity containing VOCs	9/5/98	7/26/00, 65 FR 45920
<ul style="list-style-type: none"> <li>• Surface Coating for Insulation of Magnet Wire</li> <li>• Surface Coating of Automobiles and Light-Duty Trucks</li> <li>• Surface Coating of Cans</li> <li>• Surface Coating of Coils</li> <li>• Surface Coating of Fabrics</li> <li>• Surface Coating of Large Appliances</li> <li>• Surface Coating of Metal Furniture</li> <li>• Surface Coating of Miscellaneous Metal Parts and Products</li> <li>• Surface Coating of Paper</li> </ul>	Section 129.52 Surface coating processes	6/10/2000  11/20/10	7/20/01, 66 FR 37908  8/24/2011, 76 FR 52870
Tank Truck Gasoline Loading Terminals	Section 129.59 Bulk gasoline terminals	8/3/91	5/13/93, 58 FR 28362
Use of Cutback Asphalt	Section 129.64 Cutback asphalt paving	8/13/83	7/27/84, 49 FR 30183



Wood Furniture	Sections 129.101-107 Wood Furniture Manufacturing Operations	6/10/00	7/20/01, 66 FR 37908
----------------	---	---------	-------------------------

### **Non-CTG VOC Source Categories**

In its 2006 RACT SIP, PADEP has also certified that three regulations constitute RACT for certain VOC sources for the 1997 ozone NAAQS based on the currently available technically and economically feasible controls. Table 2 lists these source categories, their state effective dates, and the date and FR citation of EPA's approval of each regulation.

**Table 2. Pennsylvania RACT Rules for Non-CTG VOC Sources**

<b>Pennsylvania Non-CTG VOC Rule (25 Pa. Code)</b>	<b>State Effective Date</b>	<b>EPA Approval Date &amp; FR Citation</b>
Section 129.65 Ethylene production plants	8/1/79	5/20/80, 45 FR 33607
Section 129.72 Manufacture of surface active agents	5/23/92	12/22/94, 59 FR 65971
Section 129.75 Mobile equipment repair and refinishing	11/27/99	8/14/00, 65 FR 49501
Section 129.51 Sources of VOC, General (This section lists general requirements for all sources of VOCs, and does not include RACT controls.)	4/10/1999 6/28/2014	6/25/2001, 66 FR 33645 6/25/2015, 80 FR 36482

### **III. Final Action**

EPA's review of this material indicates that Pennsylvania's 2006 RACT SIP meets certain RACT requirements for the 1997 ozone NAAQS for applicable CTG source categories and for three non-CTG VOC categories: manufacture of surface active agents, mobile equipment repair and refinishing, and ethylene production plants to address sections 182(b) and 184(b) of the CAA. EPA is approving Pennsylvania's 2006 RACT SIP, which was submitted on September 25, 2006. This SIP revision consists of (1) Pennsylvania's certification that previously adopted and SIP approved RACT controls for CTG source categories and three non-CTG source categories are

based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour implementation purposes and (2) negative declaration that there are no sources in the Commonwealth of Pennsylvania for five CTG source categories. EPA finds this 2006 RACT SIP meets requirements for RACT in CAA section 182(b) and 184(b) with respect to these CTG categories, to the negative declarations, and to these specific VOC source categories. Pennsylvania has addressed its remaining obligations to address major stationary source RACT for VOC and NO<sub>x</sub> sources in a subsequent SIP submittal for which EPA will take later, separate rulemaking action.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the “Proposed Rules” section of today’s **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **insert date 90 days after date of publication in the Federal Register** without further notice unless EPA receives adverse comment by **insert date 30 days after date of publication in the Federal Register**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### **IV. Statutory and Executive Order Reviews**

##### **A. General Requirements**

Under the CAA, the Administrator is required to approve a SIP submission that complies with

the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## **B. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

## **C. Petitions for Judicial Review**

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in

the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action approving Pennsylvania's 2006 RACT SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 22, 2017.

Cecil Rodrigues,  
Acting Regional Administrator,  
Region III.

40 CFR part 52 is amended as follows:

## **PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401~~et seq.~~

### **Subpart NN-- Pennsylvania**

2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for “Reasonably Available Control Technology (RACT) for the 1997 ozone national ambient air quality standard (NAAQS)” at the end of the table to read as follows:

#### **52.2020 Identification of plan.**

\* \* \* \* \*

(e)\*\*\*

(1) \*\*\*

<b>Name of non-regulatory SIP revision</b>	<b>Applicable geographic area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
* * * * *				
Reasonably Available Control Technology (RACT) for the 1997 ozone national ambient air quality standard (NAAQS)	Statewide	9/25/2006	[Insert date of Federal Register publication], [Insert Federal Register citation]	Pertaining only to control technique guideline (CTG) source categories and three non-CTG volatile organic compound (VOC) source categories: manufacture of surface active agents, mobile equipment repair and refinishing, and ethylene production plants. Remainder of submittal withdrawn 6/27/2016.

\* \* \* \* \*

[FR Doc. 2017-14204 Filed: 7/6/2017 8:45 am; Publication Date: 7/7/2017]